IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Chapter VIII, Rule 32(2) (b)
Description of case

Appeal from Order No. 257 of 2006

Date of decision: 26th April, 2006

A.F.R. (Approved for Reporting)

~~Not Approved for Reporting~~

Date 26.4.2006. Initials of Judge

Note: Bench Reader will attach this at the top of first page of the judgment when it is put up before the Judge for signature.

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Appeal from Order No. 257 of 2006

Pradeep Negi S/o Sri D.S. Negi,
R/o Ward No.2, Lalkuwan,
District Nainital. …… Appellant

Versus

Uttaranchal State Transport Corporation,
Through its Regional Manager,
Regional Office Tallital,
Nainital. …… Respondent

Mr. Manish Dalakoti, Advocate for the appellant.
Mr. N.S. Pundir, Advocate for the respondent.

JUDGMENT

Coram: Hon. Rajeev Gupta, C.J.
Hon. Prafulla C. Pant, J.

RAJEEV GUPTA, C.J. (Oral)

Mr. Manish Dalakoti, Advocate for the appellant.

Mr. N.S. Pundir, Advocate for the respondent.

They are heard.

2. This is claimant's appeal for enhancement of the compensation awarded by Motor Accident Claims Tribunal / Addl. District Judge (Second Fast Track), Nainital vide Award dated 10.02.2006 passed in Motor Accident Claim Case No. 15 of 2005.

3. Claimant Pradeep Negi by filing claim petition under Section 166 of the Motor Vehicles Act claimed compensation of Rs. 54,00,000/- (Rupees Fifty Four Lakhs only) for the injuries suffered by him in the motor accident on 16.11.2004 when the Bus bearing registration No. UP07 H 5484 dashed him resulting in multiple injuries including crush injuries in his left leg. In spite of several operations, claimant's left leg was amputated. The claimant pleaded that he was student of MBA and after completing his education, he would have secured a reasonable job for himself with a handsome salary of at least Rs. 20,000/- per month. The claimant pleaded that on account of amputation of his left leg, he has become

disabled for rest of his life and the same has adversely affected all his future prospects.

4. Respondent Uttaranchal Road Transport Corporation contested the claim denying the manner of the accident alleged in the claim petition.

5. The Tribunal, on the evidence led by the parties, found that claimant Pradeep Negi suffered multiple injuries in the accident which took place on 16.11.2004; that the injuries suffered by the claimant in the accident led to amputation of his left leg; that the accident occurred due to rash and negligent driving of the driver of the offending vehicle Bus bearing registration No. UP07 H 5484; and that respondent Uttaranchal Road Transport Corporation being the owner of the offending vehicle Bus was liable to pay compensation to the claimant. Taking the notional income of Rs. 15,000/- as the income of the claimant, the Tribunal assessed the Loss of Earning Capacity on account of the amputation of the left leg at Rs. 2,55,000/-. Accepting the bills and vouchers submitted by the claimant in regard to the amount spent on treatment, the Tribunal awarded a sum of Rs. 7,00,000/- towards Medical Expenses. In addition, Rs.50,000/- was awarded towards Physical Pain and Mental Agony; Rs. 15,000/- towards Transportation from Dehradun to Delhi; Rs. 25,000/- for the Loss of One Year of Studies during the period the claimant remained admitted in the hospital; and Rs. 50,000/- towards Future Medical Expenses. Thus, a total sum of Rs. 10,95,000/- (Rupees Ten Lakhs and Ninety Five Thousand only) was awarded as compensation to the claimant. Interest also was awarded at the rate of 7% per annum from the date of the application.

6. Mr. Manish Dalakoti, the learned counsel for the appellant vehemently argued that the Tribunal has erred in awarding low compensation of Rs. 10,95,000/- only though the appellant, on account of the amputation of his left leg, has become disabled for the rest of his life.

7. The Apex Court in case of **Nagappa Vs. Gurudayal Singh and others** reported in **(2003) 2 SCC 274**, considering the quantum of compensation involving amputation of leg, held a sum of Rs. 2,00,000/- as reasonable compensation. In the present case, the Tribunal has awarded a sum of Rs. 2,55,000/- towards Loss of Earning Capacity as against the sum of Rs.2,00,000/- awarded by the Apex Court. In addition, the Tribunal has awarded a sum of Rs. 7,00,000/- towards Medical Expenses as was claimed by the claimant before the Tribunal. We further gather that a sum of Rs. 50,000/- has also been awarded towards Future Medical Expenses. The Tribunal has been quite liberal in awarding Rs. 50,000/- for Physical Pain and Mental Suffering and Rs. 25,000/- towards Loss of One Year of Studies on account of the hospitalisation of the claimant.

8. Thus, we are satisfied that the Tribunal has awarded compensation under all the permissible heads.

9. We, therefore, do not find any scope for enhancement of the compensation awarded by the Tribunal.

10. The appeal filed by the claimant under Section 173 of the Motor Vehicles Act for enhancement of the compensation awarded by the Tribunal is, therefore, liable to be dismissed and is, hereby, dismissed summarily.

(Prafulla C. Pant, J.) **(Rajeev Gupta, C.J.)**
26.04.2006 **26.04.2006**

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